

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 000511133-0146-02;I.D. 051600B]

RIN 0648-AN52

Atlantic Highly Migratory Species; Trade Restrictions for Bluefin Tuna and Swordfish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; public hearings; request for comments.

SUMMARY: NMFS proposes to amend the regulations governing the Atlantic highly migratory species (HMS) fisheries to remove a prohibition on the importation of Atlantic bluefin tuna (BFT) from Panama; to prohibit the importation of BFT and its products from Equatorial Guinea; and to prohibit the importation of Atlantic swordfish and its products from Belize and Honduras. These restrictions would implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The intent of these actions is to improve conservation and management of the Atlantic swordfish and bluefin tuna resources, while allowing harvests consistent with recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

DATES: NMFS will hold public hearings in June, 2000 to receive comments from fishery participants and other members of the public regarding these proposed regulations. See SUPPLEMENTARY INFORMATION for hearing dates and times. For individuals unable to attend a hearing, NMFS also solicits written comments on the proposed rule. To be considered in developing the final rule, written comments on the proposed rule must be received at the appropriate address or fax number (see ADDRESSES) by 5 p.m. on [insert date 60 days after date of filing for public inspection at the Office of the Federal Register].

ADDRESSES: See SUPPLEMENTARY INFORMATION for public hearing locations. Comments on the proposed rule should be sent to and copies of the Draft Environmental Assessment/Regulatory Impact Review supporting this action may be obtained from Rebecca Lent, Highly Migratory Species Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. These documents may be viewed on the NMFS website at www.nmfs.gov/sfa/hmspg.html. Comments also may be sent via facsimile (fax) to 301-713-1917. Comments will not be accepted if submitted via e-mail or on the Internet.

FOR FURTHER INFORMATION CONTACT: Rachel Husted, 301-713-2347; fax: 301-713-1917 or by email at rachel.husted@noaa.gov. The NMFS HMS website is www.nmfs.gov/sfa/hmspg.html.

SUPPLEMENTARY INFORMATION: The U.S. Atlantic swordfish fishery and the BFT fishery are managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks and regulations at 50 CFR part 635 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; codified at 16 U.S.C. 1801 et seq.) and the Atlantic Tunas Convention Act (ATCA; codified at 16 U.S.C. 971 et seq.). Regulations issued

under the authority of ATCA carry out the recommendations of ICCAT.

Proposed Import Restrictions

On August 21, 1997 (62 FR 44422), NMFS prohibited the importation of BFT and its products from Panama, Honduras, and Belize, to implement a 1996 ICCAT recommendation. At that time, vessels of those countries had been determined by ICCAT to be fishing in a manner inconsistent with ICCAT conservation and management measures for bluefin tuna. In recognition of Panama's new status as a Contracting Party and the notable steps that country has taken and is taking to control its fleet and address ICCAT's concerns, ICCAT recommended in 1999 that its members lift the trade ban on bluefin tuna products from Panama. Therefore, consistent with the 1999 ICCAT recommendation, NMFS proposes to lift the import restriction on Panama and allow for the importation of BFT from that country.

In contrast to the efforts of the Government of Panama, information available to ICCAT indicates that Honduras and Belize continue to have vessels fishing in a manner that diminishes the effectiveness of ICCAT's conservation and management measures for both BFT and Atlantic swordfish. (Background on the original BFT determination can be found at 62 FR 44422, August 21, 1997.) In recent years, significant increases in exports of swordfish by Belize and Honduras have been recorded, although no catch data have been reported to ICCAT. This activity is occurring while other countries have reduced their catches of swordfish to comply with ICCAT conservation measures for the overfished north Atlantic swordfish population. ICCAT has repeatedly contacted the governments of Belize and Honduras, but has never received a satisfactory response from either government regarding actions to rectify the situation. Therefore, consistent with the 1999 ICCAT recommendation, NMFS proposes to prohibit the importation of Atlantic swordfish and its products from Honduras and Belize. The prohibition on imports of BFT and its products from these countries would also remain in effect.

In 1999, ICCAT also recommended that its members prohibit the import of BFT from Equatorial Guinea (a Contracting Party to ICCAT). ICCAT took this step as a last resort to address non-compliance with BFT quota limits. Import data from 1997-1999 reveal significant exports of BFT by Equatorial Guinea despite the fact that, for those years, this country received no catch allocation from ICCAT for BFT. The Government of Equatorial Guinea has not responded to repeated correspondence from ICCAT regarding the BFT fishing activities of its vessels and Equatorial Guinea has reported no BFT catch data. Therefore, consistent with the 1999 ICCAT recommendation, NMFS proposes to prohibit the importation of BFT and its products from Equatorial Guinea.

Public Hearings

NMFS will hold public hearings in June 2000 to receive comments from fishery participants and other members of the public regarding these proposed amendments at the following times and locations:

Monday, June 5, 2000 - Houma, LA, 7-9:30 p.m.

Holiday Inn Holidome, Houma, LA.

Tuesday, June 6, 2000 - Fairhaven, MA, 7-9:30 p.m.

The Seaport Inn, 110 Middle Street, Fairhaven, MA 02719.

Thursday, June 22, 2000 - Panama City, FL, 7-9:30 p.m.

National Marine Fisheries Service, Panama City Laboratory, 3500
Delwood Beach Road, Panama City, FL 32408.

Thursday, June 22, 2000 - Barnegat Light, NJ, 7-9:30 p.m.

Barnegat Light Firehouse, Barnegat, NJ 08006.

Tuesday, June 22, 2000 - Pompano, FL, 7-9:30 p.m.

Pompano Beach Civic Center, 1801 NE 6th Street, Pompano Beach, FL
33060.

Special Accommodations

These hearings will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Rachel Husted at (301) 713-2347 at least 5 days prior to the hearing date.

Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act and ATCA. The Assistant Administrator for Fisheries, NOAA has preliminarily determined that the regulations contained in this proposed rule are necessary to implement the recommendations of ICCAT and to manage the domestic Atlantic HMS fisheries.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed regulatory amendment, if implemented, would not have a significant economic impact on a substantial number of small entities as follows:

Implementing trade restrictions on Atlantic BFT and Atlantic swordfish and Atlantic BFT and Atlantic swordfish products from Belize and Honduras, and Atlantic BFT and Atlantic BFT products from Equatorial Guinea would not have a significant economic impact on a substantial number of small entities because these countries currently do not export these fish or fish products to the United States and there are sufficient alternative sources of supply for United States importers and processors. The proposed restrictions would not alter current domestic fishing or marketing practices in any significant way.

Because of this certification, an Initial Regulatory Flexibility Analysis was not prepared.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The proposed action would not impose any additional reporting or recordkeeping requirements subject to OMB approval

under the Paperwork Reduction Act.

On November 19, 1999, NMFS reinitiated formal consultation for all HMS commercial fisheries under section 7 of the Endangered Species Act. A new Biological Opinion will be issued in June 2000. In the interim, no irretrievable commitments of resources are expected from this proposed action.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Imports, Treaties.

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Fisheries, Fishing, Treaties.

Dated: May 18, 2000

Penelope Dalton, Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635--ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 et seq.; 16 U.S.C. 1801 et seq.

2. Section 635.45 is revised to read as follows:

§ 635.45 Products denied entry.

(a) All shipments of BFT or BFT products, or swordfish or swordfish products, in any form, harvested by a vessel under the jurisdiction of Belize or Honduras will be denied entry into the United States.

(b) All shipments of BFT or BFT products, in any form, harvested by a vessel under the jurisdiction of Equatorial Guinea will be denied entry into the United States.

3. The heading of § 635.46 is revised to read as follows:
§ 635.46 Import requirements for swordfish.

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